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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re I.F. et al, Persons Coming Under the  
Juvenile Court Law.

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LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

W.N.,

Defendant and Appellant.

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B267987

(Los Angeles County  
Super. Ct. No. DK11383)

APPEAL from orders of the Superior Court of Los Angeles County, Daniel Zeke Zeidler, Judge. Affirmed in part and dismissed in part.

Anne E. Fragasso, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, and Jessica S. Mitchell, Principal Deputy County Counsel, for Plaintiff and Respondent.

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W.N. (Mother) appeals from the dependency court's jurisdictional and dispositional orders regarding her minor sons, I.F. (age 8) and Jerry K. (age 5). The court assumed jurisdiction and removed the children from Mother's custody. Mother contends that the jurisdictional and dispositional orders removing the children from her custody were not supported by substantial evidence. We disagree with Mother as to the jurisdictional order and affirm it. We also dismiss Mother's appeal of the dispositional order as moot.

### **FACTS AND PROCEEDINGS BELOW**

On May 6, 2015, the family came to the attention of the Department of Children and Family Services (DCFS) when it received a referral alleging that I. and Jerry were victims of general neglect by Mother.<sup>1</sup> The reporting party stated that the children were repeatedly locked out of mother's motel room, where the family resided, to play in the motel parking lot without supervision until 11:00 p.m. at night. Mother's motel room allegedly smelled of marijuana. The reporting party further claimed that I. had a pink eye because another child had fired a BB gun at I.'s eye in the motel parking lot and Mother had not taken I. to the doctor. I. was allegedly damaging cars in the motel parking lot, engaging in physical altercations with other children at the motel and taking extra portions of food at school.

On the same day as the referral, a DCFS social worker went to the motel to investigate the claims and spoke with the motel manager, various tenants and Mother. The manager knew nothing about the incident report and pointed out I. to the social worker, who was riding his bike in the parking lot; he appeared dirty, but was wearing clothes and sneakers. Mother was not visible. One tenant, who had witnessed the BB gun incident, reported to the social worker that the children were regularly left unsupervised outside playing and hitting cars.

For the 15 minutes the social worker was at the motel, she did not observe Mother leave her room to check on I.. At one point, the social worker heard an unknown woman

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<sup>1</sup> The whereabouts of the children's respective fathers remain unknown and they were not involved in the proceedings below and are not parties in this appeal.

tell I. to go inside and wash his hands because he was dirty, but when I. attempted to open the door to his motel room, it was locked. Nobody answered the door, although the social worker was told that Mother was in the room.

The social worker then walked to the motel room to interview Mother. Upon approaching the room where the family resided, the social worker noted the smell of marijuana coming from the room. The social worker knocked on the door, a man looked out the window, and Mother came outside to speak with the social worker. Mother refused to allow the social worker to enter the room.

The social worker advised Mother about the child safety investigation and the allegations that prompted the visit. Mother responded by yelling at the social worker and claimed she did not have time for the investigation. Mother told the social worker that I. had been shot in the eye with a BB gun by another child in the motel parking lot and I. shot the other child in the back with the same gun. Mother reported that she would take I. to the doctor to have the eye checked. DCFS told Mother they needed to see Jerry too, but Mother reported he was at daycare.

On May 7, 2015, DCFS social workers and the deputy sheriff went to the motel to make contact with both children because the social worker was unable to see Jerry on the first visit. When they arrived, Mother was upset that they had returned. Mother stated she was on her way to take I. to the doctor for his eye. Upon being questioned, Mother said she bought food daily for the children, but did not keep food in the room because of roaches and other pests. Mother also noted the children ate at school and day care. The social worker asked about the marijuana smell, and Mother refused to tell DCFS if she had a marijuana card and refused to submit to a drug test. She also declined to provide the social worker with her boyfriend's name, although the social worker had seen the man the day before at the motel.

Mother explained that she worked from 7:00 a.m. to 4:45 p.m. each day at the post office. She drove a rental car and picked Jerry up at his daycare after work. She stated she had money to move into an apartment but could not do so because of many evictions. DCFS said it could help her with securing an apartment, but Mother said she did not want

any help. In response to a question from the social worker about how she disciplined her children, Mother said she spanked them with her hand and put them to bed early.

Mother gave DCFS permission to speak with I.. I. told DCFS that a child had shot him in the eye with a BB gun, and although it was red, it did not hurt. When asked if he had eaten breakfast, he said that he had not yet eaten, although it was 1:00 p.m. I. then told the social worker that he did not wish to speak anymore. He asked Mother for money so he could get something to eat at the store, but she had no money, only a debit card.

Mother agreed to make Jerry available later that evening for a DCFS interview. When the social worker returned later that evening, Mother was cleaning the room, which was dirty, and told the social worker that she did not take I. to the doctor as planned because it had gotten too late. Mother said she would take I. the following day.

Mother agreed to allow DCFS to inspect the children for marks and bruises. I. had scratches on his cheek and scabs on his left knee. He stated that he scratched his cheek when he fell down and the scabs were from falling off his bike. The social worker did not observe marks or bruises on Jerry.

During this initial interview, Jerry reported that Mother hit him all over his body with a belt, which hurt him, and that she spanked him with her hands whenever he got in trouble. He said he liked to play outside in the parking lot until late.

DCFS also received a school report from I.'s school, which noted that he frequently hoarded food and appeared to be raising himself. I. was described in the school report as aggressive on the playground, disruptive in class, and the school was concerned that Mother was disengaged and uncooperative about supervising or actively correcting I.'s behavior.

On May 12, 2015, the social worker received the children's medical information from their pediatrician's office, which showed I.'s last doctor's visit was on May 8, 2015 for his eye, his immunizations were up-to-date, although Jerry's were not, and the doctor had no concerns regarding abuse or neglect of the children.

On May 14, 2015, DCFS obtained a removal order, and placed Jerry with a nonrelated extended family member, Anita K., and I. in foster care.

On May 17, 2015, the social worker received a call that Mother had “jumped” her neighbor at the motel because Mother blamed the neighbor for her children’s removal. According to the caller, Mother dragged the neighbor up and down the motel complex, and punched the neighbor in front of the caller’s son. Law enforcement intervened. The same day the social worker called Mother to discuss the incident and asked Mother about participating in monitored visits with her children. Mother admitted she engaged in a physical altercation with a woman at the motel, but claimed she was defending herself. Mother said she would wait to have visitation with her children until the juvenile court issued its decision.

On May 20, 2015, DCFS initiated dependency proceedings on behalf of I. and Jerry, alleging that the children were at risk due to mother’s excessive physical abuse of Jerry on multiple occasions and Mother’s failure to supervise her children. The juvenile court detained the children in shelter care. The court also ordered Mother to weekly random and on-going drug/alcohol testing, weekly monitored visits, and other reunification services.

On June 2, 2015, DCFS interviewed Jerry at its office. Jerry reported that Mother locked the door to their motel room and only opened it when it got dark. She would remain inside with her boyfriend smoking “chocolate blunts,” which were “weed.” He also alleged that Mother disciplined him by hitting him and I. with a “black belt,” and he, too, had been shot by a BB gun in the parking lot. Jerry stated that when Mother was at home, he would play outside in the motel parking lot and Mother would lock the door. He stated that he “always knocked and knocked and she wouldn’t let us in,” and Mother would ignore them and only unlock the door when all the lights went out and it was nighttime.

On June 5, 2015, DCFS interviewed I. at his placement. I. appeared withdrawn and failed to make eye contact with the social worker. He stated that he routinely walked home by himself from school to the motel and played with other children in the parking

lot. Because his motel room was locked, he would ask “the lady in #3” for food after school. I. denied that Mother hit him with a belt. When the social worker questioned how Mother disciplined him, he responded that he did not “want to talk about it.”

On June 10, 2015, DCFS interviewed Mother in the motel parking lot because Mother refused to allow the social worker to enter her room. Mother denied that she hit Jerry with a belt or failed to supervise either child. She stated that Jerry made things up, including being shot with the BB gun. Mother stated that she did not have time to take classes or go to counseling, and she wanted her children returned to her and DCFS out of her life.

The social worker also interviewed Mother’s neighbor, a motel resident, who would watch the children if they were outside playing with the neighbor’s children, although the neighbor had no formal arrangement with Mother. The neighbor had Mother’s cellular phone number in case of an emergency.

The social worker also interviewed Anita, a longtime family friend, who watched Jerry during the day while Mother was at work and I. was at school and both boys on the weekend if Mother had to work. Anita stated that the children seemed excessively hungry at times and she always fed them when they came to her home.

The social worker both interviewed and received a report from I.’s school principal. The principal had referred I. for services to address his behavioral issues, but Mother never followed up on the referral. The school had contacted Mother several times to meet with the staff to make a plan for the child, but Mother did not attend any meetings. Mother was, however, involved in a physical fight with another parent whose child attended the school. After the children were detained by DCFS, Mother came to the school and acted belligerently with the staff and only left after school authorities threatened to call law enforcement.

The school social worker opined that I. appeared neglected; his clothing was dirty and he always seemed hungry. Mother would behave erratically when the school called about I..

On October 1, 2015, DCFS submitted last minute information to the court, which reported Mother enrolled in a 52-week individual counseling program on July 15, 2015, attended one session, missed four sessions, was advised to continue participation, and was terminated from the program due to excessive absences. Mother was a no-show for court ordered drug tests on July 24, August 27 and September 2, 2015. She submitted to a drug test on July 6, 2015, which was positive for marijuana. Mother was in full compliance with the weekly monitored visits.

Mother also submitted evidence to the juvenile court that, in late July and August 2015, she enrolled in parenting classes and weekly individual counseling sessions.

On October 1, 2015, the court sustained the Welfare and Institutions Code section 300<sup>2</sup> petition, finding, pursuant to subdivisions (a)(1), (b)(1) and (j) that Mother “physically abused the child Jerry by striking the child with belts and the mother’s hands. Such physical abuse was excessive and caused the child unreasonable pain and suffering . . . and places the child and the child’s sibling, [I.,] at risk of serious physical harm, damage, danger and physical abuse.” The court also found that the Mother “placed the children in a detrimental and endangering situation in that the mother failed to properly supervise the children.”

In sustaining the physical abuse counts, the juvenile court noted that Jerry discussed how Mother hit him throughout his body with a belt, he described the belt, stated she spanked him with her hands when he got into trouble, and “mother’s interactions with everyone in the world seem to show anger management concerns that would tend to support the physical abuse of Jerry.” The court found that remaining in the home would create a substantial danger to the children, and removed them from Mother’s custody. Mother timely appealed.

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<sup>2</sup> All subsequent statutory references are to the Welfare and Institutions Code unless otherwise noted.

Subsequent to filing her appeal, on March 17, 2016, the juvenile court ordered the children to be returned home to Mother's care under the supervision of DCFS.<sup>3</sup> In that order, the court terminated the October 1, 2015 removal order at issue in this appeal. A week later, on March 23, 2016, DCFS filed a section 342 petition, alleging new facts and requesting that the court remove the children from Mother's home. Pursuant to section 342, the court found that there were no reasonable means to protect the children without removing them from Mother's home, and ordered that they be removed. The March 23, 2016 removal order is not at issue in this appeal.

## **DISCUSSION**

### *A. The Jurisdictional Order*

On appeal Mother asserts that the evidence was insufficient to support dependency jurisdiction. We disagree and, therefore, affirm.

Where, as here, a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, "a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) Although the petition was based on section 300, subdivisions (a), (b), and (j), subdivision (b) is the one that most closely describes the situation regarding I. and Jerry. Accordingly, we will focus on that subdivision.

We conclude the evidence supported the juvenile court's jurisdictional finding under section 300, subdivision (b)(1). Under section 300, subdivision (b)(1), a juvenile court may exercise jurisdiction over a child when the "child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect

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<sup>3</sup> On July 11, 2016, we granted DCFS's motion to take judicial notice of the March 17, 2016 and March 23, 2016 orders.

the child.” In short, there are three elements for jurisdiction under section 300, subdivision (b), namely: (1) neglectful conduct in one of the specified forms (failure to supervise), (2) causation, and (3) serious physical harm or illness to the child, or a substantial risk of such harm. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1124.)

In this case, the focus is on whether there was substantial evidence that Mother failed to supervise her children and whether that failure caused harm or poses a substantial risk of causing harm to her sons.

Although Mother concedes the situation was “not ideal,” she argues that jurisdiction was unwarranted. We disagree.

Both children and residents of the motel told the social worker that Mother regularly left her children (then ages 5 and 8) unsupervised in the motel parking lot late into the evenings. Although the children would knock on the motel room door, Mother would ignore them and refuse to let them in until late at night. Indeed, on May 6, 2015, when the social worker visited the motel, she witnessed I. knocking on the motel door and Mother ignoring the knocks. Mother did not inquire if I. was hurt, hungry or sick. Several motel residents noted that during the hours that the boys were locked out of the room, they damaged cars and got into altercations with other children. I. walked home from school alone and Mother made no formal arrangements for his care. His clothing was dirty, he was hungry, and he hoarded food. School officials also reported that I. had serious behavioral problems, which Mother ignored. This habitual neglect caused serious harm to the children, including persistent hunger and temporary periods of abandonment for the multiple hours each day that they were left outside the locked motel room while Mother refused to open the door. Moreover, given Mother’s refusal to see her behavior as problematic, there was a substantial risk of future harm; the neglect would continue. We, therefore, affirm the court’s jurisdictional order.

#### B. *The Dispositional Order*

Mother contends that the court erred by failing to state its basis for its removal order or consider alternatives to removal. In contrast, DCFS argues that the October 1, 2015 dispositional order removing the children from Mother’s home is moot

because the children were returned to Mother under the supervision of DCFS based on the March 17, 2016 order, which terminated the earlier removal order. We agree with DCFS.

As a general rule, it is a court's duty to decide “ ‘ “actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.” ’ ” (*Eye Dog Foundation v. State Board of Guide Dogs for the Blind* (1967) 67 Cal.2d 536, 541.) “An appellate court will dismiss an appeal when an event occurs that renders it impossible for the court to grant effective relief.” (*In re N.S.* (2016) 245 Cal.App.4th 53, 59.) “The critical factor in considering whether a dependency appeal is moot is whether the appellate court can provide any effective relief if it finds reversible error.” (*Id.* at p. 60.)

Here, Mother appeals the October 1, 2015 removal order. That order, however, was terminated by the court on March 17, 2016 and the children were returned to Mother. Less than a week later, on March 23, 2016, DCFS filed a section 342 petition alleging new facts and circumstances. Based on those new facts and circumstances, which are not at issue in this appeal, the court detained the children and ordered them removed. Accordingly, even if we were to reverse the October 1, 2015 removal order, which is the subject of this appeal, it would provide no relief to Mother because that order was terminated on March 17, 2016 and the later removal order was based on new facts and circumstances. We, therefore, dismiss the appeal as to the October 1, 2015 dispositional order as moot.

**DISPOSITION**

The jurisdictional order is affirmed, and the October 1, 2015 dispositional order is dismissed as moot.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

LUI, J.